

(b) *Payment method*—(1) *Letter of credit*. In order to receive payment by the letter of credit method, the recipient must comply with the requirements regarding letter of credit described in 40 CFR 31.20 (b)(7) and 31.21(b). The recipient must identify and charge costs to specific sites, activities, and operable units, as applicable, for drawdown purposes as specified in the Cooperative Agreement.

(2) *Reimbursement*. If the recipient is unable to meet letter of credit requirements, EPA will pay the recipient by reimbursement. The recipient must comply with the requirements regarding reimbursement described in 40 CFR 31.21(d).

(3) *Working capital advances*. If the recipient is unable to meet the criteria for payment by either letter of credit or reimbursement, EPA may provide cash on a working capital advance basis. Under this procedure EPA shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the recipient's disbursing cycle. Thereafter, EPA shall reimburse the recipient for its actual cash disbursements. In such cases, the recipient must comply with the requirements regarding working capital advances described in 40 CFR 31.21(e).

§ 35.6285 Recipient payment of response costs.

The recipient may pay for its share of response costs using cash, services, credits or any combination of these, as follows:

(a) *Cash*. The recipient may pay for its share of response costs in the form of cash.

(b) *Services*. The recipient may provide equipment and services to satisfy its cost share requirements under Cooperative Agreements. The recipient must comply with the requirements regarding in-kind and donated services described in 40 CFR 31.24.

(c) *Credit*—(1) *General credit requirements*. Credits are limited to State site-specific expenses that EPA determines to be reasonable, documented, direct, out-of-pocket expenditures of non-Federal funds for remedial action. Credits are established on a site-specific basis. Only a State may claim credit.

(i) The State may claim credit for response activity obligations or expenditures incurred by the State or political subdivision between January 1, 1978 and December 11, 1980.

(ii) The State may claim credit for remedial action expenditures incurred by the State after October 17, 1986.

(iii) The State may not claim credit for removal actions taken after December 11, 1980.

(2) *Credit submission requirements*. (i) *Expenditures incurred before a site is listed on the NPL*. Although EPA may require additional documentation, the State must submit the following before EPA will approve the use of the credit:

(A) Specific amounts claimed for credit, by site (estimated amounts are unacceptable), based on supporting cost documentation;

(B) Units of government (State agency, county, local) that incurred the costs, by site;

(C) Description of the specific function performed by each unit of government at each site;

(D) Certification (signed by the State's fiscal manager or the financial director for each unit of government) that credit costs have not been previously reimbursed by the Federal Government or any other party, and have not been used for matching purposes under any other Federal program or grant; and

(E) Documentation, if requested by EPA, to ensure the actions undertaken at the site are cost eligible and consistent with CERCLA, as amended, and the NCP requirements. This requirement does not apply for costs incurred before December 11, 1980.

(ii) *Expenditures incurred after a site is listed on the NPL*. A State may receive credit for remedial action expenditures after October 17, 1986, only if the State entered into a Cooperative Agreement before incurring costs at the site.

(3) *Use of credit*. The State must first apply credit at the site at which it was earned. With the approval of EPA, the State may use excess credit earned at one site for its cost share at another site (See CERCLA section 104(c)(5)). Credits must be applied on a site-specific basis, and, therefore, may not be used to meet State cost-share requirements for Core Program Cooperative

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Agreements. EPA will not reimburse excess credit.

(4) *Credit verification.* Credits are subject to verification by audit and technical review of actions performed at sites.

(d) *Over match.* The recipient may not use contributions in excess of the required cost-share at one site to meet the cost-share obligation at another site or the Core Program cost-share obligation. Overmatch is not "credit" pursuant to § 35.6285(c)(3).

(e) *Cost sharing.* The recipient must comply with the requirements regarding cost sharing described in 40 CFR 31.24. Finally, the recipient cannot use costs incurred under the Core Program to offset cost-share requirements at a site.

(f) *Advance match.* (1) A Cooperative Agreement for a site-specific response entered into after October 17, 1986 cannot authorize a State to contribute funds during remedial planning and then apply those contributions to the remedial action cost share (advance match).

(2) A State may seek reimbursement for costs incurred under Cooperative Agreements which authorize advance match.

(3) Reimbursements are subject to the availability of appropriated funds.

(4) If the State does not seek reimbursement, EPA will apply the advance match to off-set the State's required cost share for remedial action at the site. The State may not use advance match for credit at any other site, nor may the State receive reimbursement until the conclusion of CERCLA-funded remedial response activities. Also, the State may not use advance match for credit against cost-share obligations for Core Program Cooperative Agreements.

(5) Claims for advance match are subject to verification by audit.

[55 FR 23007, June 5, 1990, as amended at 55 FR 24343, June 15, 1990]

§ 35.6290 Program income.

The recipient must comply with the requirements regarding program income described in 40 CFR part 31.25.

PERSONAL PROPERTY REQUIREMENTS UNDER A COOPERATIVE AGREEMENT

§ 35.6300 General personal property acquisition and use requirements.

(a) *General.* (1) Property may be acquired only when authorized in the Cooperative Agreement.

(2) The recipient must acquire the property during the approved project period.

(3) The recipient must:

(i) Charge property costs by site, activity, and operable unit, as applicable;

(ii) Document the use of the property by site, activity, and operable unit, as applicable; and

(iii) Solicit and follow EPA's instructions on the disposal of any property purchased with CERCLA funds as specified in § 35.6340 and § 35.6345 of this subpart.

(b) *Exception.* The recipient is not required to charge property costs by site under a pre-remedial or Core Program Cooperative Agreement.

§ 35.6305 Obtaining supplies.

To obtain supplies, the recipient must agree to comply with the requirements in §§ 35.6300, 35.6315(b), 35.6325 through 35.6340, and 35.6350 of this subpart. Supplies obtained with Core Program funds must be for non-site-specific purposes. All purchases of supplies under the Core Program must comply with the requirements in the above listed sections, except where these requirements are site-specific.

§ 35.6310 Obtaining equipment.

To obtain equipment, the recipient must agree to comply with the requirements in § 35.6300 and §§ 35.6315 through 35.6350 of this subpart.

§ 35.6315 Alternative methods for obtaining property.

(a) *Purchase equipment with recipient funds.* The recipient may purchase equipment with the recipient's own funds and may charge EPA a fee for using equipment on a CERCLA-funded project. The fee must be based on a usage rate, subject to the usage rate requirements in § 35.6320 of this subpart.

(b) *Borrow federally owned property.* The recipient may borrow federally